

REMARKS

Claims 1-12 are pending in this Application. Claims 1-12 were rejected by the Examiner. The Examiner objected to Claims 8 and 9 for informalities. The Applicant has amended Claims 8 and 9 in accordance with Examiner's suggestion. The Applicant has amended claim 3 to correct an error in dependency and in accordance with the Examiner's comment. The Applicant has canceled claim 5 and amended claim 4 to include the limitation of claim 5, and the Applicant has amended claim 6 to properly depend from amended claim 4. All amendments are fully supported by the specification and no new matter has been added.

The Examiner has also objected to the specification due to informalities. However, the use of "A" is appropriate in line 1 of the abstract of the first sentence and the use of "The" is appropriate in the second sentence. The Applicant is uncertain as to what the Examiner is objecting.

The Examiner is respectfully requested to reconsider the rejection of this Application in light of the foregoing remarks.

35 U.S.C. §112

Claim 3

The Examiner rejected claim 3 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention. In making the rejection,

the Examiner stated "Claim 3 depends back to itself." The Examiner is correct in his assumption that claim 3 was to depend from claim 2, and the applicant thanks the Examiner for pointing this out. The Applicant has amended claim 3 in accordance with the Examiner's comment.

35 U.S.C. §102

Claims 1-7 under Ferris

The Examiner rejected claims 1-76 under 35 U.S.C. §102(b) as being anticipated by Ferris (U.S. Ref. 2,675,981).

In making the rejection, the Examiner stated that:

Ferris '981 discloses a stand (above) comprising first and second support sections (above) each having first and second ends, a first rotatable mount (above) disposed upon the first support section proximate to the second end thereof ("proximate" is defined in Merriam Webster's Collegiate Dictionary – 10th Edition as being "close," so clearly, the first rotatable mount is disposed "close" to second end of the first support section; further, all subsequent uses of the term "proximate" in this office action will use the same meaning, and all feature being compared as "proximate" in this office action are clearly "close" to one another), a second rotatable mount (above) disposed upon the second support section proximate to the second end thereof, an elongated brace (above) having a first end (left end of elongated brace above) attached to/disposed on the first support section proximate to the first end thereof and a second end (right side of elongated brace above) attached to/disposed on the second support section proximate to the first end thereof a, a first movable support (above) disposed upon the first support section proximate to the first rotatable mount and beneath the first rotatable support, a second movable support (above) disposed upon the second support section proximate to the second rotatable mount and beneath the second rotatable mount.

For a 35 U.S.C. §102 rejection, it is well established caselaw that "a claim is anticipated only if each and every element as set forth in the claim is found,

either expressly or inherently described, in a single prior art reference."

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The Ferris device discloses a stand for mounting a frame for a "hooked-rug" type article. The Ferris device also requires that there be both a first and second support section in order to properly function as the frame for the hooked rug that the stand is designed for will not be properly supported without a second support section. Furthermore, the "movable support" to which the Examiner refers is not a movable support at all but merely a chain. There is no suggestion or disclosure in the Ferris reference that the chain is "movable." In fact, the chain holds the frame in a stationary position, so it cannot be moved.

The Applicant's invention, as described in independent claim 1, is a work stand that can be operated with only one support section. For example, the device can be placed vertically and a door "hung" from one rotatable support. It is for this reason that claim 1 is directed to a single support section and rotatable support. The Ferris reference neither teaches nor suggests this ability and therefore, the Applicant's invention as described in independent claim 1 is patentably distinct from the Ferris device.

Claim 2 and amended claim 3 depend either directly or indirectly on patentable independent claim 1 and are therefore patentable for at least the same reasons as patentable independent claim 1.

The Applicant's invention, as described in amended independent claim 4, discloses a first movable support, which is neither taught nor suggested in Ferris. Again, the component to which the Examiner refers in Ferris as a "movable support" is an immovable chain. Therefore, amended independent claim 4 is patentably distinct from the Ferris device.

Claim 5 has been canceled and its limitation has been included in amended independent claim 4.

Claims 6-11 depend, either directly or indirectly, from patentable amended independent claim 4, and are therefore patentable for at least the same reasons as patentable amended independent claim 4.

In addition, claim 6 discloses a second movable support, disposed upon the second support section. The Ferris device, as previously disclosed, does not teach nor suggest a first or second movable support. Therefore, claim 6 is patentable for this reason as well as its dependence upon patentable amended independent claim 4. Dependent claim 7 is patentable for the same reasons as claim 6.

Claims 1-4 and 10-12

The Examiner has rejected claims 1-4 and 10-12 under 35 U.S.C. §102(b) as being anticipated by de Cuadros.

In making the rejection, the Examiner stated:

Regarding claims 1-4, 10 and 11, de Cuadros '203 discloses a stand (above) comprising first and second support sections (above) each having first and second ends, a first rotatable mount (41, it can rotate about the threads) disposed upon the first support

section proximate to the second end thereof, a second rotatable mount (41, it can be rotated about the threads) disposed upon the second support section proximate to the second end thereof, an elongated brace (above) having a first end (left end of elongated brace above) attached to/disposed on the first support section proximate to the first end thereof and a second end (right side of elongated brace above) attached to/disposed on the second support section proximate to the first end thereof, wherein the elongated brace further comprises a first elongated member (above) having first and second ends (left and right sides respectively, above), and a second elongated member (above) having first and second ends (right and left sides respectively, above), whereby the first end of the first elongated member is pivotally attached to the first support section proximate to the first end of the first support section, the first end of the second elongated member is pivotally attached to the second support section proximate to the first end of the second support section, and the second end of the first elongated member is pivotally attached to the second end of the second elongated member, wherein a hinge (above, 33f, see column 3, lines 35-52).

Further, regarding claim 12, de Cuadros '203 teaches the first support section to have first and second legs (21a, 21b) each having first and second ends (above), wherein the second ends of the first and second legs are substantially together and the first ends of the first and second legs are substantially apart, and the second support section to have first and second legs (22a, 22b) each having first and second ends (above), wherein the second ends of the first and second legs are substantially together and the first ends of the first and second legs are substantially apart,

Wherein the stand further includes a first support brace (21d) having a first end connected to the first leg of the first support section proximate to the first end of the first leg of the first support section, and the second end of the first support brace is connected to the second leg of the first support section proximate to the first end of the second leg of the first support;

Wherein the stand includes a second support brace (22d) having a first end connected to the first leg of the second support section proximate to the first end of the first leg of the second support section, and the second end of the second support brace is connected to the second leg of the second support section proximate to the first end of the second leg of the second support section;

Wherein the above mentioned elongated brace is a first elongated brace, wherein the first elongated member of the first elongated brace has a first end pivotally attached to the first leg of the first support section proximate to the first end of the first leg of

the first support section, wherein the first end of the second elongated member of the first elongated brace is pivotally attached to the first leg of the second support section proximate to the first end of the first leg of the second support section, and the second end of the first elongated member of the first elongated brace is pivotally attached to the second end of the second elongated member of the first elongated brace,

Wherein the stand further includes a second elongated brace (above), wherein a first elongated member of the second elongated brace has a first end pivotally attached to the second leg of the first support section proximate to the first end of the second leg of the first support section, wherein the first end of a second elongated member of the second elongated brace is pivotally attached to the second leg of the second support section proximate to the first end of the second leg of the second support section, and the second end of the first elongated member of the second elongated brace is pivotally attached to the second end of the second elongated member of the second elongated brace.

Again, for a 35 U.S.C. §102 rejection, it is well established caselaw that "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The de Cuadros reference discloses a support for a hammock, which must include two support members to function properly as a hammock must lie in the horizontal plane in order to be useful. As such, the de Cuadros device does not disclose a support that could be operated utilizing only one section.

On the other hand, again, the Applicant's invention, as described in independent claim 1, is a work stand that can be operated with only one support

section. For example, the device can be placed vertically and a door “hung” from one rotatable support. It is for this reason that claim 1 is directed to a single support section and rotatable support. The de Cuadros reference neither teaches nor suggests this ability and therefore, the Applicant’s invention as described in independent claim 1 is patentably distinct from the De Cuadros device.

Claim 2 and amended claim 3 depend either directly or indirectly on patentable independent claim 1 and are therefore patentable for at least the same reasons as patentable independent claim 1.

The Applicant’s invention, as described in amended independent claim 4, discloses a first movable support, which is neither taught nor suggested in De Cuadros. Therefore, amended independent claim 4 is patentably distinct from the de Cuadros device.

Claims 10-11 depend, either directly or indirectly, from patentable amended independent claim 4, and are therefore patentable for at least the same reasons as patentable amended independent claim 4.

35 U.S.C. §103(a)

Claims 8 and 9

The Examiner has rejected claims 8 and 9 under 35 U.S.C. §103(a) as being unpatentable over Ferris (‘981).

In making the rejection, the Examiner stated:

Ferris ‘981 discloses the previous invention wherein I appear the first and second movable mounts are respectively mounted on

the inside or outside of the first and second support sections, but it is not completely clear whether they are in fact mounted on either the inside or the outside of the support sections. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have respectively mounted the first and second movable mounts on the inside of the first and second support sections so as to either provide easier access to the movable mounts (if mounted on the outside) or to provide greater concealment of the movable mounts for aesthetical reasons (if mounted on the inside. Further, either configuration would provide sufficient support of an object utilizing the stand.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. §103, the Examiner must demonstrate that there is a suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine the reference teachings. Furthermore, the prior art references must teach or suggest all of the claim features. It is well settled law that the prior art itself must provide the motivation for a proposed alteration of a reference. Ex parte Chicago Rawhide Manufacturing Co., 220 U.S.P.Q. 351, (B.O.P.A. 1984). Moreover, the suggestion must be plain and clear or the rejection is untenable. Fromson v. Offset Plate, Inc., 225 U.S.P.Q. 26, 32 (Fed. Cir. 1985); Kimberly-Clark Corp. v. Johnson & Johnson, 223 U.S.P.Q. 603, 610 (Fed. Cir. 1984). The Examiner is not free to pick bits and pieces from the prior art and, with the hindsight benefit of applicants' disclosure, attempt to reconstruct the invention. Orthopedic Equipment, Inc. v. U.S., 217 U.S.P.Q. 193, 199 (Fed. Cir. 1983).

Claims 8 and 9 depend from patentable amended independent claim 4, Again, the Ferris device does not disclose a movable support at all. However, even assuming, *arguendo*, that the chain described in the Ferris reference was a

movable support, it is clearly not mounted on any conceivable "interior" or "exterior" of the support. Furthermore, there is no motivation or suggestion in the Ferris device that the chain can be mounted on an interior or exterior of the support. Therefore, the use of the chain in the Ferris device is not as claimed by the Applicant in dependent claims 8 and 9, and they are patentably distinct therefrom for that reason as well as their dependence from patentable amended independent claim 4.

CONCLUSION

In view of the foregoing amendment and remarks, it is believed that this Application is now in condition for allowance. Early and favorable reconsideration is respectfully solicited.

If the Examiner has any questions regarding the foregoing amendment and remarks, or if prosecution of this Application could be furthered by a telephone interview, the Examiner is requested to telephone the Applicant's undersigned attorney.

Respectfully submitted,

By: 
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Non-provisional patent application of

John M. Vincak

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Application No: 10/659,731

Examiner Name: Jonathon A Szumny

For: WORK STAND

Filing Date: September 10, 2003

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Office Action: May 28, 2004

CERTIFICATE OF MAILING

Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450
Mail Stop Response/Fee

Date of Deposit: October 28, 2004

I hereby certify that this Response to Office Action and Petition for 2 Month Extension of Time, and fee are being deposited with the United States Postal Service via First Class Mail on the date indicated above, addressed to Commissioner for Patents, P.O. Box 1450, Arlington, VA 22313-1450, Mail Stop Response/Fee.


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Date: October 28, 2004

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